

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

RNA CORPORATION,

Civil File No. 1:08-cv-05953

Plaintiff and
Counterclaim Defendant,

v.

**STIPULATED TEMPORARY
INJUNCTION**

THE PROCTER & GAMBLE
COMPANY,

Defendant and
Counterclaimant.

RECITALS

A. Defendant and Counterclaimant The Procter & Gamble Company ("P&G") is an Ohio corporation with its principal place of business in Cincinnati, Ohio.

B. Plaintiff and Counterclaimant Defendant RNA Corporation ("RNA") is an Illinois corporation with its principal place of business in Blue Island, Illinois.

C. P&G has sold products labeled HERBAL ESSENCES bearing the packaging designs shown on Exhibit A hereto (the "P&G Packaging").

D. P&G is the owner of federal trademark Registration No. 3,337,074.

E. P&G is the owner of U.S. Patent Nos. D562,139; D562,140; D569,730; D573,884.

F. RNA has sold products labeled Hydrating Herbal Shampoo and Hydrating Herbal Conditioner bearing the packaging shown on Exhibit B attached hereto (the "RNA Packaging").

G. RNA represents that it does not manufacture the bottle utilized in the RNA Packaging, and that RNA purchases said bottle from GK Packaging, Inc. GK Packaging, Inc. is the owner of U.S. Patent No. D581,276. DC

H. RNA filed the above captioned action against P&G seeking a declaration, *inter alia*, that the RNA packaging does not infringe on any right of P&G. P&G filed counterclaims asserting, *inter alia*, that the RNA Packaging infringes on P&G's rights in the P&G Packaging, the Herbal Essences Logo, and the P&G Patents.

I. Each party denies the claims asserted, and contests the other's entitlement to the relief sought, in their respective pleadings (the complaint and counterclaim).

J. P&G has filed a motion seeking a preliminary injunction prohibiting distribution of products bearing the RNA Packaging during the pendency of this case, such motion scheduled currently scheduled to be heard on May 27, 2009.

K. The Court has indicated its willingness to conduct a settlement conference with the parties on May 27, 2009 should the parties agree to terms for a temporary injunction in lieu of a preliminary injunction hearing.

STIPULATED TEMPORARY INJUNCTION

Based upon the consents of the parties and their attorneys, in order to obviate the need for any further preliminary injunction proceedings, and without prejudice to any of the parties' respective positions in this case, it is hereby ORDERED and ADJUDGED, that RNA and its officers, agents, successors, assigns, parents, subsidiaries, servants, employees, directors, attorneys and representatives, are preliminarily restrained and enjoined in connection with the following acts:

During the pendency of this case, RNA shall not manufacture, sell, distribute, export, import, or advertise through a website or any other means any products packaged in the RNA Packaging, any substantially similar packaging, or any other packaging confusingly similar to the P&G Packaging shown on Exhibit A.

The undersigned consent to entry of this Stipulated Temporary Decree without further notice. The execution and entry of this Stipulated Temporary Decree shall not constitute an admission or waiver by either party with respect to any positions asserted or denied in their pleadings.

On behalf of:

THE PROCTER & GAMBLE
COMPANY

By: Can & Ross

Date: 4/17/09

As Counsel for:

THE PROCTER & GAMBLE
COMPANY

By: Peter M. Lancaster

Date: 4/16/09

DORSEY & WHITNEY LLP
Peter M. Lancaster
Heather D. Redmond
Suite 1500, 50 South Sixth Street
Minneapolis, MN 55402-1498
Telephone: (612) 340-2600

Attorneys for P&G

On behalf of:

RNA CORPORATION

By: John D. Heems

Date: 4/20/09

As Counsel for:

RNA CORPORATION

By: Daniel S. J.

Date: 4/20/09

BURKE, WARREN, MACKAY
& SERRITELLA
Frederic A. Mendelsohn
Daniel Klapman
330 Wabash Avenue, 22nd Floor
Chicago, IL 60611
Telephone (312) 840-7004

Attorneys for RNA Corporation

SO ORDERED:

BY THE COURT

Dated: _____

United States District Court Judge